



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/147,894	03/23/1999	MASAHITO TANAKA	445-271P	2395

2292 7590 03/01/2004

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

REICHLE, KARIN M

ART UNIT	PAPER NUMBER
----------	--------------

3761

22

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/147,894

Applicant(s)

TANAKA ET AL.

Examiner

Karin M. Reichle

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-11,15 and 19-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-11,15 and 19-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11-26-03 has been entered.

Specification

2. The amendments to page 2, line 11 and page 23, line 14 filed 10-26-03 did not comply with 37 CFR 1.121, i.e. all the added text was not underlined, all the deleted text was not struck through or was missing. The Examiner has made the necessary corrections to the text to bring it into compliance with 37 CFR 1.121.

Drawings

3. The drawings were received on 11-26-03. These drawings are not approved by the Examiner. Contrary to Applicant's remarks the replacement sheets did not include the approved changes of 10-24-01.

4. The drawings are objected to because due to the added page of Figures the page numbers should reflect that there are 8 pages of Figures, i.e. 1/8, 2/8, etc. Also, in Figure 15, the number 6 should not be underlined. Figure 14 and the description at page 24, lines 15-18 are

Art Unit: 3761

inconsistent, i.e. the body 90' in Figure 14 is not the same as that shown in the fourth embodiment of Figure 8. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Description

5. The disclosure is objected to because of the following informalities: in the amendment to page 23, line 14, line 8 thereof, "planar" still needs to be deleted. As discussed infra, the description at page 24, lines 15-18 are inconsistent with Figure 14.

Appropriate correction is required.

Claim Objections

6. Claims 6 and 7 are objected to because of the following informalities: in claim 6, line 2 is redundant. In claim 7, line 2, "obtainable by interposing" should be deleted, on line 3 "by admixing" should be --an admixture of-- and on line 4, ", and...into" should be --in--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. Claims 1-3, 6-11, 15 and 19-26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 3761

In regard to claim 1, it is unclear whether applicant is claiming an absorbent member which is only one sheet or a member which comprises an absorbent sheet where in either case the barrier cuffs are formed by integrally folding only the sheet and the top layer, i.e. if the former, on line 7, "containing" should be --is-- and if the latter on lines 7 and 8 "single" should be deleted. This rejection also applies to claim 19 to similar language with respect to the second absorbent member. Additionally, on line 12 of claim 19, after "folding", --only-- should be inserted. In regard to claim 20, lines 8-9 appear to be inconsistent, i.e. how can the second absorbent member be a single pad but then include an auxiliary pad too, i.e. on lines 8 and 12, "single" should be deleted and on line 12, after "folding", --only-- should be inserted.

Claim Language Interpretation

8. The "means plus function" terminology in claims 8 and 10 invoke 35 USC 112, sixth paragraph, but claims 9 and 11 do not since they recite sufficient specific structure to perform such function. Also the terminology "sheet" is interpreted as including at least one layer but if more than one layer the layers are integrated to form, e.g., a laminate. The terminology "integrally folded" is interpreted as not requiring serpentine folding except where explicitly claimed as such. It is also interpreted that the pad which forms the projecting portion does not have to be on the skin contactable surface of the pocket to form a projecting portion on such side. As best understood, see discussion supra, the absorbent member in claim 1 and the second absorbent member in claims 19 and 20 includes an absorbent sheet or a pad and the barrier cuffs are formed by integrally folding only that sheet or that pad and the associated topsheet. "Barrier"

Art Unit: 3761

is defined as "something that acts to hinder or restrict" as defined by the American Heritage Dictionary.

Allowable Subject Matter

9. The following is a statement of reasons for the indication of allowable subject matter: The prior art of good date, alone or in any combination, as well as such and the claims of Tanaka '297 and '190, Kimura et al '925 and Hamajima '525, i.e. patents not of good date but which have at least one common inventor, do not teach the combination of the barrier cuffs, as best understood, see paragraphs 7 and 8 supra, in combination with a projecting portion formed therebetween in combination with the sheet thickness as claimed as well as the other features in claim 1 or in combination with the other features of claims 19 and 20.

Response to Arguments

10. Applicant's remarks have been considered but are either deemed moot in that the issue discussed has not been reraised or is deemed not persuasive in view of the objections and rejections set forth supra.


Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (703) 308-2617. The examiner can normally be reached on Monday-Thursday.

Art Unit: 3761

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert can be reached on (703) 308-1025. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Karin M. Reichle
Primary Examiner
Art Unit 3761

KMR
February 19, 2004